

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), (e) and (f)
for
Wednesday, July 23, 2014
1:30 P.M.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: July 11, 2014

RE: Closed Session of the Board to be held on July 23, 2014

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), (e) and (f) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session. Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

1. 840 THE STRAND, LLC., 13-R3D5-3353 AND 3354
2. A. TEICHERT & SON INC., DBA TEICHERT AGGREGATES, 11-R5D1-1895
3. CAL PAC SHEET METAL, INC., 13-R2D1-0547 AND 0548
4. M.F. MILLER COATINGS, INC., 12-R2D1-3488 AND 3489

PETITIONS FOR RECONSIDERATION:

1. DAMON, INC., 13-R6D5-1975 AND 1976

2. LEVY RESTAURANTS, 12-R1D5-2714 AND 2715

DENIAL OF PETITIONS FOR RECONSIDERATION (DRAFT):

ORDERS DISMISSING APPEAL:

1. COMMERCE CREATIVES, LLC., 13-R6D5-1356 THROUGH 1358
2. NEXICLE, 13-R4D4-2419
3. SEA SPACE CORPORATION, 13-R3D2-3470 AND 3471

ORDERS GRANTING LEAVE TO FILE LATE APPEAL:

ORDERS DENYING LEAVE TO FILE LATE APPEAL:

1. EUROTECH CABINETS, INC., 14-R6D2-9076
2. MATTHEW T. HOLT DBA CLASSIC AUTO CENTER, 14-R6D5-9074

AMENDED ORDER:

MATTERS HELD OVER FROM PREVIOUS MEETINGS:

(If the Board is unable to conclude its deliberations and/or if any matter(s) is (are) put over from a previous meeting, they will be further discussed.)

MATTERS PENDING RECONSIDERATION:

(If the Appeals Board orders reconsideration of an Order or Decision, it reviews the record and then affirms, rescinds, alters or amends the Order or Decision being reconsidered.)

1. JAMES BALDWIN DBA LYON'S MUFFLER & BRAKE, 14-R6D5-9019
2. B & B ROOF PREPARATION, INC., 12-R3D6-2946
3. BELLINGHAM MARINE INDUSTRIES, 12-R2D2-3144 THROUGH 3146
4. BRAD STONER PAINTING, INC., 13-R3D2-9200
5. CABRILLO ECONOMIC DEVELOPMENT CORP., 11-R4D3-3185 & 3186

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6. CLARK PACIFIC PRECAST, LLC, ET AL, 09-R2D1-0282
7. DISH NETWORK CAL. SVC. CORP., 12-R4D3-0455
8. FEDEX GROUND, 13-R3D1-1220
9. FERMA CORPORATION, 12-R2D2-1669
10. GMAC ELECTRIC, INC., 13-R6D5-9138
11. HARRIS CONSTRUCTION, 03-R2D5-3914
12. HHS CONSTRUCTION, 12-R3D2-0492-0497
13. IN THE POCKET, INC. DBA BRENTWOOD BOWL, 11-R1D3-2272
14. KELLY GLOBAL LOGISTICS, INC., 12-R3D5-0014
15. K H S & S OF CONCORD, INC., 11-R2D2-0374 and 0375
16. LABOR READY, 13-R3D2-0164
17. LA VALENCIA HOTEL, 13-R3D2-9199
18. LYON'S MUFFER & BRAKE, 14-R6D5-9019
19. M1 CONSTRUCTION, INC., 12-R4D1-0222 AND 0223
20. MARIA DE LOS ANGELES COLUNGA DBA MERCED FARM LABOR,
08-R2D1-3093 THROUGH 3098
21. MARCO RUFO DBA MARCO RUFO, 13-R6D5-9217
22. McCARTHY BUILDING CO., INC., 11-R4D2-1706 AND 2406
23. McCARTHY BUILDING CO., INC., 12-R1D4-3458
24. MORE GUSTO CATERING DBA EL CHOLO CATERING, 10-R4D1-1298
25. MORROW MEADOWS CORP., 09-R3D3-2295
26. NATIONAL STEEL AND SHIPBUILDING COMPANY, 10-R6D2-3791
27. NEWSTAR FRESH FOODS, LLC., 12-R6D3-3183 THROUGH 3186

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28. O.C. JONES AND SONS, INC. 13-R2D2-0310
29. JIM PARKER, 2014-R4D1-9009
30. ROEBBELEN CONTRACTING, INC., 12-R2D2-3248
31. ROSENDIN ELECTRIC, INC., 12-R2D1-3028
32. SIERRA FOREST PRODUCTS, 09-R2D5-3979
33. SONIC DRIVE-IN, 12-R2D5-2734
34. STAFFCHEX, 10-R4D3-2456 THROUGH 2458
35. STARBUCKS DBA STARBUCK'S COFFEE #5867, 12-R3D2-3675
THROUGH 3678
36. TRADEMARK CONSTRUCTION CO., INC., 12-R4D1-0096 AND 0097
37. TREASURE ISLAND MEDIA, INC., 10-R6D1-1093 THROUGH 1095
38. VICTORY SCREEN PRINTING 12-R3D1-3673 & 3674

LEGISLATION:

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
2. BAY AREA RAPID TRANSIT DISTRICT, 34-2011-8000820 (03-R1D1-5170)
3. MASCON, INC., 34-2011-80000819 (08-R2D1-4278 AND 4279)
4. CLARK PACIFIC DBA PACIFIC EMBEDDED PRODUCTS, 34-2011-80000965
(10-0188~0191)

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5. FLATIRON CONSTRUCTION CORP, 34-2012-80001029 (10-R4D1-2789)
6. JENSEN PRECAST, 34-2012-80001120 (05-R2D1-2377)
7. THE HERRICK CORPORATION, 34-2012-80001118 (07-0495)
8. UNDERGROUND CONSTRUCTION, 34-2012-80001124 (09-3518)
9. DUININCK BROS., INC., 34-2012-80001129 (06-2871)
10. C.A. RASMUSSEN, INC., 34-2012-80001241-CU-WM-GDS (08-R4D5-0219 AND 0220)
11. SHIMMICK CONSTRUCTION CO., INC., 34-2012-80001248 (09-R2D3-0399)
12. A TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001258 (05-R2D4-2650 AND 2651)
13. CA DEPT OF FORESTRY, 34-2012-80001263 (10-R2D1-0728)
14. A. TEICHERT & SON, 34-2012-80001265 (05-R2D5-2650 AND 2651)
15. PRESTON PIPELINES, INC., 34-2012-80001277 (09-R6D7-3345)
16. BLUE DIAMOND GROWERS, 34-2012-80001308 (10-R2D1-1280/1281)
17. CLARK PACIFIC PRECAST LLC, et al, 34-2012-80001319 (09-R2D1-0282/0283)
18. A. TEICHERT & SON, DBA TEICHERT CONSTRUCTION, 34-2012-80001332 (09-R4D5-0459 & 0460)
19. HOME DEPOT USA, INC., BS141301 (10-3284)
20. PRESTON PIPELINES, INC., 34-2013-8001381 (11-2530)
21. GUARDSMARK, LLC, 30-2013-00651094 (12-R3D1-0056)
22. AC TRANSIT, RG13687314 (08-R1D4-0135)
23. DSS COMPANY DBA KNIFE RIVER CONSTRUCTION, 34-2013-80001575 (12-R5D1-337)
24. BAY AREA RAPID TRANSIT DISTRICT, RG13689346 (09-R2D2-1219 & 1221)

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25. CA PRISON INDUSTRY AUTHORITY, 13 C 0327 (08-R2D5-3426 ~ 3429)
26. HILL CRANE SERVICE, INC., 34-2014-80001730 (12-R4D1-2475)
27. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 34-2014-80001749 (2008-R2D1-3414 THROUGH 3418)
28. SHIMMICK-OBAYASHI, 34-2014-80001750 (2008-R3D3-5023 THROUGH 5025)
29. TAD VAN NGUYEN, CPF-14-513482 (13-R1D1-9163)
30. BAY AREA RAPID TRANSIT DISTRICT, RG14715710 (10-R1D1-3056 THROUGH 3058) (DOSH)
31. LAND O'LAKES PURINA FEED, LLC, RG14715717 (08-R2D4-1843 AND 1844) (DOSH)
32. BAY AREA RAPID TRANSIT DISTRICT, RG14715720 (10-R1D1-3056 THROUGH 3058) (3rd Party)
33. BRUNTON ENTERPRISES DBA PLAS-TAL MFG CO., 34-2014-80001817 (09-R6D2-2238 ~ 2241)
34. WEST VALLEY CONSTRUCTION, INC., 34-2014-80001832 (12-R2D5-3526)
35. BARNARD IMPREGILO HEALY JV, CPF-14-513697 (14-R5D1-9013)
36. BHC FREMONT HOSPITAL, INC., RG-14-731145 (13-R1D2-0204)

APPELLATE COURT:

1. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, C075477, 34- 2011-80000640 (08-R2D1-0027 THROUGH 0030)
2. XL CONSTRUCTION, C074514, 34-2009-80000300 (08-R1D2-1191 THROUGH 1193)
3. SHERWOOD MECHANICAL, INC., D065322, 37-2012-00101466 (08-R3D2-4690 ~ 4693)
4. ORANGE COUNTY FIRE AUTHORITY, G050220, 30-2013-00628178 (CONSOLIDATED)

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ABC RHUBARB FARMS INC., 13-R6D2-3616 THROUGH 3618
2. ADVANCED SKIN INSTITUTE, 14-R2D4-0984
3. ALL N AG FARM, INC., 13-R4D7-3898
4. ARYZTA LLC AKA LA BAKERY, INC., 14-R4D3-1256 AND 1257
5. DAN AVILA & SONS, 14-R2D4-1646
6. SABINO BARRAGAN & ERNESTINA GARCIA DBA GREEN MACHINE
AUTOMOTIVE, 14-R6D7-0603 AND 0604
7. BELMONT ATHLETICS LLC., 14-R3D2-1552
8. BELMONT PARK ENTERTAINMENT LLC., 14-R3D2-1551
9. CURTIS BERESFOLD DBA FULL SERVICE SCAFFOLD, 13-R1D1-3605
THROUGH 3607
10. BIRMINGHAM CONTROLS, INC., 14-R3D5-1113
11. BODEGA LATINA CORP. DBA EL SUPER, 14-R3D5-0942 AND 0943
12. BORDEN MANUFACTURING, INC., 13-R2D3-3711
13. BRC MOBILE SANDBLASTING & PAINTING, INC., 13-R4D7-3344
14. BREault ASPHALT MAINTENANCE, INC., 14-R2D1-0223 AND 0224
15. BUDDY BAR CASTING, INC., 14-R6D2-1598 THROUGH 1604
16. BYRD HARVEST, INC., 13-R6D5-3356 THROUGH 3358
17. CA CORRECTIONS – CORCORAN, 13-R2D5-0576
18. CAL BAY SERVICES INC., 14-R1D5-0695
19. CA CORRECTIONS & REHABILITATION, 14-R2D2-1573 AND 1574

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20. CARDENAS MARKETS, INC., 13-R4D4-3074
21. CITY OF POWAY, 13-R3D2-1398
22. COUNTY OF L.A. PROBATION DEPT., 13-R4D4-2560
23. CROWN BLDG. MAINTENANCE CO. DBA ABLE BUILDING SVCS.,
14-R1D1-1213
24. CUSTOM CONCRETE, INC., 13-R6D5-2430 AND 2431
25. DIVERSIFIED CONCRETE CUTTING INC., 14-R2D1-1933
26. CHRIS DOBKINS, 14-R1D1-0549 THROUGH 0555
27. EAST BAY ZOOLOGICAL SOCIETY DBA OAKLAND ZOO, 13-R1D4-3538
28. EIGHT STAR ASSOCIATES LLC., 14-R2D1-1123 THROUGH 1126
29. ESKATON CARE CENTER, 14-R2D1-1895
30. FOREST LAWN MEMORIAL PARK ASSOCIATION DBA FOREST LAWN,
13-R4D1-1654
31. ROBERT GALLARDO DBA RGC CONTRACTING, 14-R6D7-0072
32. GARZA, INC., 13-R6D5-3832
33. G I A ELECTRICAL AND SOLAR DBA G I A POWER MGNT., 14-R2D4-1138
THROUGH 1141
34. GRIFFIN FAMILY CARE HOME, INCORPORATED DBA GFCH, 14-R6D1-1272
35. HACIENDA MOTORS, LTD DBA MERCEDES BENZ OF PLEASANTON,
14-R1D4-1891
36. BRIAN HAUGEN, 14-R6D7-9045
37. HMI CONSTRUCTION SERVICE, 13-R4D4-2796 THROUGH 2798
38. IMPACT CENTER, INCORPORATED, DBA I.M.P.A.C.T., 14-R6D1-1273
39. INDUSTRIAL ASSETS MACHINERY, 14-R3D5-1441
40. INTEGRA TECHNOLOGIES, INC., 13-R3D5-2149 AND 2150

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41. INTER TEX GENERAL CONTRACTORS, INC., 13-R3D1-3314
42. JB PLASTICS, INC., 14-R3D1-1461 AND 1462
43. KANA PIPELINE, INC., 14-R3D1-1289
44. KCB PLUMBING CONTRACTORS, INC., 13-R4D4-2843
45. KENAI DRILLNG CO., 13-R3D5-0644
46. KENDALL PLAZA, LLC, 13-R3D3-3859
47. KENTER CANYON FARMS, INC. 13-R4D3-3473
48. KING'S HAWAIIAN BAKERY WEST, INC., 13-R3D5-3338 AND 3339
49. KUMAR HOSPITALITY, INC., DBA MOTEL 6, 13-R2D1-3362
50. LAKE COUNTY FIRE PROTECTION DISTRICT, 13-R2D1-3251
51. LINEAGE LOGISTICS DBA TERMINAL FREEZERS, LLC., 13-R4D3-3431
52. LOS ANGELES PORT POLICE, 14-R6D2-0433
53. MAIN ELECTRICAL SUPPLY COMPANY, LLC, 13-R3D1-3648 THROUGH 3650
54. MADSEN ROOFING AND WATERPROOFING, INC., 13-R4D3-2559
55. MERICLE MECHANICAL, INC., 12-R4D6-2674 THROUGH 2676
56. MESA HARVESTING COMPANY, 13-R6D5-3359
57. NEW DIMENSION MASONRY INC., 13-R3D2-1008 AND 1009
58. OASIS DATE GARDENS, INC., 13-R6D5-3942 THROUGH 3944
59. OLEANDER HOLDINGS, LLC DBA SACRAMENTO POST-ACUTE,
14-R2D1-1850
60. O.P. HANDYMAN, 10-R4D3-4118 AND 4119
61. PACIFIC RIM MECHANICAL, 14-R3D2-1237
62. PAPICH CONSTRUCTION COMPANY, INC., 13-R4D7-2891

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63. PHILLIPS 66, 14-R6D3-0462
64. POWERFUL ELECTRIC, INC., 13-R4D3-2997 AND 2998
65. PREMIUM PACKING, INC., 13-R6D5-3524 AND 3525
66. PRINTER'S EDGE WEST, 14-R2D1-1956
67. R 3 CONTRACTORS, 14-R3D3-1733 THROUGH 1735
68. RAMCO ENTERPRISES L.P., 14-R1D2-0326 AND 0327
69. RECOLOGY YUBA-SUTTER, 13-R2D1-3068
70. REDWOOD ELECTRIC GROUP, INC., 14-R2D1-0745
71. ROBERTSON'S READY MIX, 14-R4D1-1396 AND 1397
72. ROLLING GREEN, INC. 13-R2D1-2593
73. ROOFLINE, INC. DBA ROOFLINE SUPPLY & DELIVERY, 14-R1D3-0307
74. SAPUTO CHEESE USA, INC., 14-R3D5-0874
75. SCA CONSTRUCTION INC., 13-R1D4-3595 AND 3596
76. SCARONI CONSTRUCTION, INC., 13-R6D5-3706
77. SEARLES VALLEY MINERALS, 14-R3D3-1993
78. SHASTA COUNTY SHERIFFS DEPT., 14-R2D1-0308
79. SHORING ENGINEERS, 13-R4D1-2981
80. SIERRA PACIFIC INDUSTRIES, 14-R2D3-1383
81. SOLPAC CONSTRUCTION INC. DBA SOLTEK PACIFIC CONSTRUCTION,
13-R3D2-0958 AND 0959
82. SOUTH COAST FIBERS, INC., 12-R4D1-1870 THROUGH 1874
83. SOUTH COUNTY PACKING, INC., 13-R1D2-3708 AND 3709
84. SPARKLING IMAGE CORP. DBA MISSION CARWASH 13-R4D3-1245

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85. SPARKLING IMAGE CORP. DBA MISSION CARWASH 13-R4D3-1246
86. STERICYCLE, INC. DBA STERICYCLE COMMUNICATIONS SOLUTIONS,
14-R2D1-1495
87. SUNFIELD FARM, INC., 14-R4D7-0536 THROUGH 0538
88. FELIPE AND LISA TERNERO, DBA TERNERO FARMS, 14-R2D3-0684
89. THE CAVE CONSTRUCTION COMPANY, 13-R5D1-3056
90. TLC AUTO REPAIR, INC., 14-R6D5-1719 AND 1720
91. TRANSILWRAP COMPANY, INC., 13-R4D4-2680 AND 2681
92. UC LOS ANGELES FACILITIES MANAGEMENT, 14-R4D1-0656
THROUGH 0659
93. UNITED STAFFING ASSOCIATES, LLC., 13-R4D3-3839 THROUGH 3841
94. USA WASTE OF CALIFORNIA, INC., 13-R3D5-3879
95. USS CAL BUILDERS, INC., 14-R3D3-1871
96. VIGNOLO FARMS, INC., 13-R4D7-3372
97. VIGNOLO FARMS, INC., 14-R4D7-0714
98. VONG FARMS, INC., 13-R6D5-3833 THROUGH 3838
99. WEBCOR BUILDERS, 13-R1D1-3591
100. WESTERN PACIFIC STORAGE SOLUTIONS, 13-R6D2-3720 THROUGH 3722

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this meeting may be continued to subsequent meetings. If the closed session agenda is not completed on the scheduled day, the closed session will continue from day to day until completion and adjournment.